

**NEW JERSEY COUNCIL ON AFFORDABLE HOUSING  
COAH COMPLIANCE REPORT**



**WASHINGTON TOWNSHIP/MORRIS COUNTY  
REGION # 2**



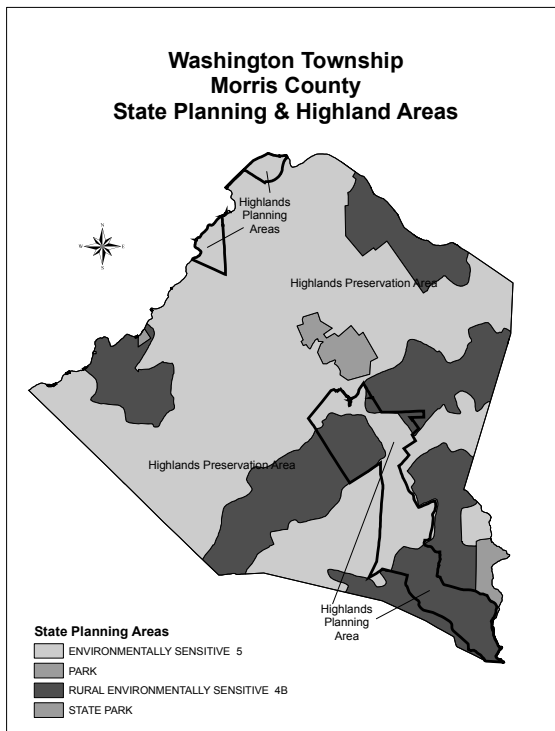
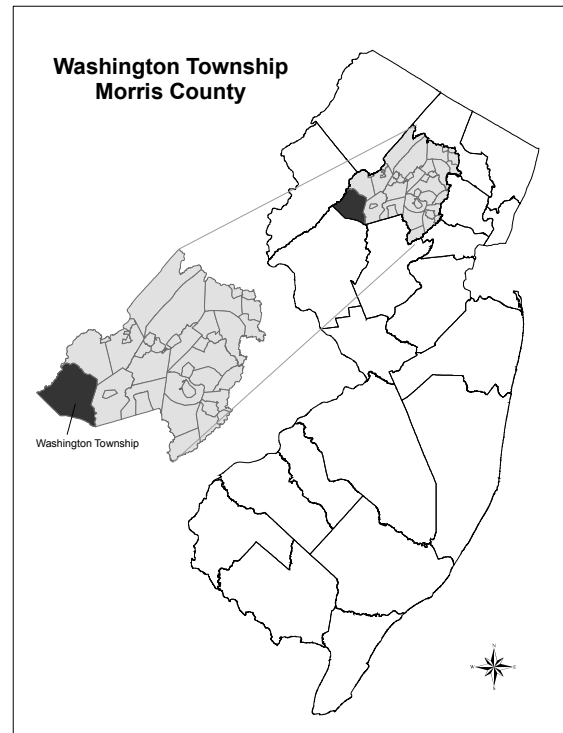
**Prepared by: Sean Thompson, Supervising Planner**

**December 19, 2006**

**I. INTRODUCTION**

Washington Township lies in the western part of Morris County and contains approximately 44.9 square miles or 28,735.88 acres. Washington is bounded by Mount Olive Township to the north, Chester Township to the east, Mansfield Township (Warren County) to the west, Lebanon Township (Hunterdon County) to the southwest and Tewksbury Township (Hunterdon County) to the south.

Washington Township is located in Planning



Areas (PA) 4B and 5 on the State Plan Policy Map (SPPM) of the State Development and Redevelopment Plan (SDRP). Approximately 25,000 acres of the Township is in the Highlands Preservation Area and 3,413 acres of the Township is in the Highlands Planning Area.

The Planning Board of Washington Township adopted a Housing Element and

Fair Share Plan on August 24, 2005, addressing its 1987-2014 affordable housing obligation. The Washington Township Committee endorsed the Housing Element and Fair Share Plan on August 30, 2005. The Council on Affordable Housing (COAH) received Washington Township's Housing Element and Fair Share Plan and its resolution of petition for third round substantive certification on September 9, 2005, which is considered the official filing date. Washington Township published notice on September 22, 2005 in the *Daily Record* and on September 22, 2005 in the *Observer Tribune*. During the 45-day objector period, no objections were received by COAH. COAH staff conducted a site visit on November 16, 2006.

COAH issued a Report Requesting Additional Information, dated April 19, 2006, reviewing the Township's September 9, 2005 petition. Subsequently, on July 18, 2006, Washington submitted the additional information. As there were no changes in sites, densities or other zoning requirements that resulted in a change of housing type on a specific site or a fundamental change in approach to how Washington proposes to meet its low- and moderate-income housing obligation, the additional information supplementing the Township's plan did not precipitate the need for a re-petition pursuant to N.J.A.C. 5:95-3.4. This report reviews Washington's plan with the supplemental information.

## **II. BACKGROUND**

Washington Township received first round substantive certification from COAH on February 16, 1988. COAH granted Washington Township second round substantive certification on February 7, 1996 and an amendment on September 2, 1998. Prior to the grant of second round certification, COAH received motions from Mine Brook Limited Partnership and West Point, L.L.C. Mine Brook's motion objected to the elimination of its site from Washington's Housing Element and Fair Share Plan and West Point's motion requested participation in the mediation process as an interested party, because its site was also eliminated from the Township's plan. Mediation began on October 30, 1995 and concluded on December 5, 1995. Mediation resulted in a signed agreement between the parties agreeing to the removal of their respective properties from Washington Township's Housing Element and Fair Share Plan.

Subsequent to mediation, COAH certified Washington on February 7, 1996 with a second round plan that included a total of 83 credits and bonus credits for 42 family rental units that also generated 23 bonuses in Peachtree Village, a three-bedroom group home constructed prior to 1986 operated by the Morris County Chapter of the Association for Retarded Citizens (ARC) located on Mission Road, a four-bedroom group home operated by the Lutheran Social Ministries located on Pleasant Grove Road, four age-restricted rental units constructed by Mendham Area Senior Housing (MASH) and seven units that had been previously rehabilitated pursuant to COAH rules. Washington Township's plan allocated 11 surplus new construction units and the seven units previously rehabilitated to the Township's rehabilitation obligation, leaving a 71-unit rehabilitation obligation. The Township's certified plan included a rehabilitation program, accessory apartment program, alternative living arrangement developments and an age-restricted inclusionary development. Additionally, Washington included a 10-unit Write-Down/Buy-Down program, to address any unforeseen shortfall in the accessory apartment program, in an amendment that was approved by COAH on September 2, 1998.

On December 3, 2004, Washington again filed a motion for extended substantive certification. On July 27, 2005, COAH conditionally granted Washington's motion requesting extended substantive certification with a requirement that Washington Township demonstrate that the municipal construction project, consisting of a group home with 12 bedrooms, continued to present a realistic opportunity to provide affordable housing. In response to the condition imposed by COAH's July 27<sup>th</sup> decision, Washington Township filed the third round plan. Subsequently, as noted above, the Township submitted the additional information that is reviewed by this report.

### **III. HOUSING ELEMENT**

The Housing Element and Fair Share Plan submitted by Washington included the minimum requirements prescribed by N.J.S.A. 52:27D-310 as required by N.J.A.C. 5:94-2.2.

Pursuant to N.J.A.C. 5:94-2.2(b), Washington also submitted the following additional supporting documentation:

- A projection of the Township's probable future construction of housing for 10 years covering the period January 1, 2004 through January 1, 2014;
- An analysis of the existing jobs and employment characteristics of the Township, and a projection of the probable future jobs and employment characteristics of the Township for 10 years covering the period January 1, 2004 through January 1, 2014;
- An analysis of how existing zoning or planned changes in zoning provide adequate capacity to accommodate residential and non-residential growth projections consistent with the municipal growth projections;
- The most recent municipal population, household, and employment growth projections published by the municipality's metropolitan planning organization; and
- A copy of the most recent tax maps and zoning ordinance for Washington.

**A. Demographic Analysis**

Washington Township's Housing Element indicates that the Township had 5,890 total housing units with 17,592 people residing in 5,755 occupied housing units, leaving 135 vacant units in 2000. The population of the Township in 1990 was 15,592 residing in 4,908 housing units. Approximately 1.8 percent of the Township's housing stock was constructed between 1990 and March 2000. According to the 2000 Census, the average household size for the Township was 3.02 persons per household and the median age of residents was 38.3 years of age. The following table compares median household income, median housing value and contract rent for the Township, Morris County and the State of New Jersey, according to the 2000 Census:

	<b>Median Household Income</b>	<b>Owner- occupied Units</b>	<b>Median Value</b>	<b>Renter- occupied Units</b>	<b>Median Gross Rent</b>
<b>Washington Township</b>	\$97,763	88%	\$279,300	12 %	\$1,052
<b>Morris County</b>	\$77,340	76%	\$245,000	24%	\$883
<b>New Jersey</b>	\$55,146	65.6 %	\$170,800	34.4 %	\$751

Based on the New Jersey Department of Labor statistics, there was an average of 2,266 total jobs in the Township in 1999.

In reviewing Washington Township's Housing Element, it is concluded that sufficient information was submitted regarding housing stock, demographic characteristics and population trends pursuant to N.J.S.A. 52:27D-310.

## **B. Third Round Fair Share Obligation**

Washington Township's third round total fair share obligation (1987-2014) consists of the sum of the Township's rehabilitation share (1999-2014), the prior round obligation (1987-1999) and the Township's third round growth share obligation (1999-2014). The Township does not have a third round rehabilitation share. Washington Township's prior round obligation is 42 units<sup>1</sup>. Washington's growth share obligation is determined pursuant to N.J.A.C. 5:94-1 et seq., which requires one affordable unit for every eight market rate units that receive a certificate of occupancy after January 1, 2004, and one affordable unit for every 25 jobs created by new or expanded development receiving a certificate of occupancy after January 1, 2004.

### **Growth Projections**

Pursuant to N.J.A.C. 5:94-2.2(b)1 and 2, Washington provided a projection of probable future construction of residential and non-residential development in the municipality during the period of January 1, 2004 through January 1, 2014 as follows:

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<sup>1</sup> Due to recalculations performed as part of the development of COAH's third round rules and methodology, prior round obligations were adjusted as indicated in Appendix C of N.J.A.C. 5:94.

## **Municipal Projections**

### *Residential: Actual Growth since January 1, 2004:*

Washington Township's Housing Element indicates 57 certificates of occupancy were issued for residential units in 2004 and one unit was demolished. This information has been verified using the New Jersey Department of Community Affairs (NJ DCA) *Construction Reporter*. The plan also indicates that 45 COs were issued for residential units in 2005 and one unit was demolished. This information has also been verified using the *Construction Reporter*. The *Construction Reporter* also shows that during 2005, COs have been issued for 45 new homes in the Township. Actual growth since January 1, 2004 totals 102 COs and two demolitions, for net growth of 100 units.

### *Residential: Projections to January 1, 2014:*

Washington's plan includes information for approved, pending, and anticipated development applications and indicates that a total of 787 new housing units are expected to be constructed and 10 units are expected to be demolished from January 1, 2006 through January 1, 2014 for projected net growth of 777 units.

According to Washington's plan, during the nine-year period 1995-2004, a total of 649 new residential units were constructed in the Township and nine residential units were demolished, for a net increase of 640 new residential units or approximately 64 units per year.

When actual activity for 2004 and 2005 (100 housing units) is added to Washington's projections for the period 2006 to 2014 (677 housing units), total net residential growth would be 777 housing units.

### *Non-residential: Actual Growth since January 1, 2004:*

Washington Township's Housing Element indicates that there were certificates of occupancy issued for a total of 16,800 square feet of non-residential activity since January 1, 2004. The Township indicates that 14,200 square feet was the result of 2,600 square feet of M-Use Group development, a 6,335 square foot school expansion and 7,865 square feet were for

alterations to existing structures, fences, tanks, barns or sheds and other miscellaneous uses. This information has been verified using the *Construction Reporter*. The Township's plan also indicates that COs were issued for 3,150 sq. ft. of space for Use Group M development, 2,560 sq. ft. of space for Use Group S development and 10,620 sq. ft. of space for Use Group U development. This information was also verified using the *Construction Reporter*. Applying the conversion factors by use group specified by Appendix E of N.J.A.C. 5:94-1 et seq., results in 8.935 jobs in 2004 and 3.662 jobs in 2005, for a total of 12.597.

*Non-residential: Projections to January 1, 2014:*

Pursuant to N.J.A.C. 5:94-2.2(b)1, Washington is required to provide a projection of the probable future jobs and employment characteristics of the municipality for ten years covering the period January 1, 2004 through January 1, 2014. The Township's projection included construction and demolition permits issued and anticipated approvals of applications for development. The Township included data on COs and demolition permits issued from 1995 through 2005. Washington's data comports with data reported in the NJDCA *Construction Reporter*, and indicates that 198 new jobs were created during the 11-year period, an average of 18 new jobs per year.

The Township indicates that it has approved development applications for 11 non-residential developments for a total of 376,200 sq. ft. and that there are two development applications currently pending for a total of 45,000 sq. ft. In addition, the Township anticipates an additional 75,000 sq. ft. from non-residential development activity by 2014. Based on approved, proposed and anticipated non-residential development during the 10-year period of substantive certification in the Township and the conversion factors by use group specified by Appendix E of N.J.A.C. 5:94-1 et seq., this projection results in 687.43 jobs.

**SDRP/ MPO Consistency Review**

Pursuant to N.J.A.C. 5:94-2.2(b)4, because Plan Projections for 2015 in an endorsed plan approved by the State Planning Commission were not available when Washington Township petitioned for third round substantive certification, Washington Township was required to

provide the most recent municipal population, household, and employment growth projections published by the municipality's metropolitan planning organization (MPO). The MPO for Washington Township is the North Jersey Transportation Planning Authority (NJTPA). Washington Township included NJTPA projections in its Fair Share Plan for comparison to the Township's projections.

COAH staff analyzed the NJTPA population and employment projections for Washington Township for the period 2004-2014 and observed the following:

**Residential:**

2015 NJTPA Households	-	2005 NJTPA Households	=	Household Change
<b>6,390</b>		<b>6,060</b>	=	<b>330</b>

**Non-Residential:**

2015 NJTPA Employment	-	2005 NJTPA Employment	=	Employment Change
<b>4,400</b>	-	<b>3,940</b>	=	<b>460</b>

Washington Township has projected its net residential growth to be 768 units and its non-residential growth to be 687 jobs. Washington's household and employment projections exceed the minimum presumption of validity test of N.J.A.C. 5:94-2.3(a).

Washington should note that pursuant to N.J.A.C. 5:94-2.4, the affordable housing obligation is based on actual growth that occurs within the municipality over time. COAH will compare the actual growth share obligation with the actual number of affordable housing units that have been constructed or provided for at the three-, five- and eight-year review periods. Pursuant to N.J.A.C. 5:95-9.1(c), when the difference between the number of affordable units constructed or provided in a municipality and the number of units required pursuant to N.J.A.C. 5:94-2.4 during the third year, fifth year and eighth year period of review results in a pro-rated production shortage of 10 percent or greater, COAH may direct Washington to amend its plan to address the shortfall.



## **Growth Share Obligation**

### **Residential**

Washington has projected its net residential growth to be 768 units which, as noted above, would be 777 units after making corrections to errors observed by COAH staff during plan review. The 777-unit projected residential growth exceeds the NJTPA's 330-household residential projection. Pursuant to N.J.A.C. 5:94-2.4(a)4, certificates of occupancy issued for market-rate units after January 1, 2004 in inclusionary developments addressing a prior round obligation may be excluded from the residential growth at the rate of four times the number of affordable units generated on that particular site. Washington Township's calculation does not exclude market rate units per N.J.A.C. 5:94-2.4(a)4. However, the Township's plan indicates that 65 (45 age-restricted units and 20 units resulting from municipally sponsored construction) of the 777 units will be affordable units. Pursuant to N.J.A.C. 5:94-2.4(a)3, the 65 affordable units may be excluded from projected residential growth for the purposes of projecting the growth share. Therefore, to determine the residential growth share, Washington would subtract 65 affordable units from 777 total units to arrive at 712 market-rate units which would then be divided by eight to determine the residential growth share obligation. The Township's projected 712 market-rate units will generate a residential growth share obligation of 89 affordable units.

### **Non-Residential**

Washington has projected its non-residential growth to be 687.43 jobs which exceeds the NJTPA's employment projection for a ten year period. Pursuant to N.J.A.C. 5:94-2.4(b), the non-residential growth share obligation is one unit for every 25 new jobs that result from new or expanded non-residential development. Washington divided 687.43 by 25 to arrive at a 27.50-unit non-residential growth share obligation.

Total Growth Share Obligation

The plan submitted by Washington calculates an 89-unit residential growth share obligation and a 27.5-unit non-residential growth share obligation for a total of 116.5 or 117 affordable units.

**C. Summary of 1987-2014 Fair Share Obligation**

Including Washington Township's prior round obligation of 42 units, the Township's total 1987-2014 fair share obligation is 159 units, consisting entirely of a new construction obligation.

The following table summarizes Washington Township's total (1987-2014) fair share obligation:

	<b>Rehabilitation Component</b>	<b>New Construction Component</b>
Rehabilitation Share	<b>0</b>	
Prior Round Obligation		<b>42</b>
Growth Share Obligation		<b>117</b>
Total 1987-2014 Obligation	<b>0</b>	<b>159</b>

**IV. FAIR SHARE PLAN**

The Fair Share Plan submitted by Washington addresses a 1987 to 2014 affordable housing obligation of 159 units.

**A. Rehabilitation Share**

Pursuant to Appendix C of N.J.A.C. 5:94, Washington Township does not have a third round rehabilitation share.

## **B. Prior Round Obligation**

Washington Township's prior round fair share obligation consists of 42 new construction units. Washington Township's Housing Element and Fair Share Plan proposes to address this obligation with credits for 11 units in an affordable rental development known as Peachtree Village which also generates 10 rental bonuses, six bedrooms in an alternative living arrangement, 10 units in a 38-unit age-restricted affordable rental development known as Brittany Hills, and five units that have previously been made affordable through the Township's second round write-down/buy-down program. As the Township's prior round obligation was recalculated by COAH and reduced from a 65-unit new construction obligation to a 42-unit new construction obligation, some of the sites that had previously been constructed to address the prior round obligation have been re-allocated in the Township's plan to address a portion of the growth share obligation.

### **Credits**

Credits represent units that have been built, created or rehabilitated.

### **Prior Cycle Credits**

Pursuant to N.J.A.C. 5:93-2.15, prior cycle credits are credits given for affordable housing units produced between April 1, 1980 and December 15, 1986, provided the units are occupied by low- or moderate-income households and that the required controls on affordability are in place. Washington's plan does not identify any prior cycle credits.

### **Post-1986 Credits**

Pursuant to N.J.A.C. 5:93-3.3, municipalities may receive credit and rental bonus credits for eligible housing activity completed subsequent to December 15, 1986.

*Peachtree Village*

Washington Township has allocated 11 of the 42 affordable family rental units constructed in Peachtree Village as part of the Township's second round certified plan. Completed in 1994, COAH staff has determined that the affordable units in this development continue to be eligible credits toward Washington's prior round obligation. The remaining 31 units may be eligible to address a portion of the Township's growth share obligation. This development also received 23 rental bonus credits in the Township's second round certified plan. However, as a result of COAH's recalculation of Washington's prior round obligation, rental units eligible to generate bonuses have been reduced and the Township has accordingly attributed only 10 rental bonuses to this site. This issue is discussed further in the prior round rental component section of this report. **[11 post-1986 credits and 10 rental bonus credits]**

*Alternative Living Arrangements*

This six-bedroom alternative living arrangement is located at 25 Overlook Drive. This project was proposed in Washington's previously certified plan and has since been completed in October of 1997. COAH staff has determined that the six units previously certified at this location continue to be eligible credits toward Washington's prior round obligation. This group home serves people with developmental disabilities and is administered by Morris County ARC. **[Six post-1986 credits]**

*Brittany Hills*

This age-restricted development was proposed in Washington's previously certified plan to produce 38 affordable units and has since been completed. COAH staff has determined that the 38 units previously certified at this location continue to be eligible credits toward Washington's prior round obligation and address a portion of the Township's third round growth share obligation. As a result of COAH's recalculation of Washington's prior round obligation, the maximum permitted number of prior round age-restricted units has been reduced and the Township has accordingly attributed only 10 units from this site as addressing the prior round obligation. COAH's monitoring reports note that the units were completed in 2002. The

remaining 28 affordable age-restricted units are eligible to address a portion of the Township's growth share obligation. **[10 age-restricted post 1986 credits]**

#### *Write-Down/Buy-down Program*

The second round certified plan for Washington Township included a 10-unit write-down/buy-down program. COAH's monitoring reports note that six units have been completed; five units were sold to moderate-income households, an additional unit is being rented. COAH staff has determined that the six units are eligible for credit towards Washington's prior round obligation and to address a portion of the Township's third round growth share obligation. The program is administered by the Morris County Housing Partnership and there are 30-year affordability controls in place. The Township has applied five owner-occupied units to the prior round. **[Five post-1986 credits]**

#### **Reductions**

Reductions represent un-built units that have been included in a previously certified affordable housing plan by zoning for low and moderate-income housing. Washington Township's Housing Element and Fair Share Plan does not include any reductions.

#### **Adjustments**

Adjustments reflect the application of COAH regulations that reduce a municipality's fair share obligation based on other limitations and/or methodological corrections. Washington Township's Housing Element and Fair Share Plan does not include any adjustments towards its prior round obligation.

#### **Prior Round Regional Contribution Agreement**

Pursuant to N.J.A.C. 5:93-6.1(a)3, Washington Township may transfer up to one-half of its prior round obligation via an RCA in accordance with the following formula:

$$RCA\ Maximum = .5 (pre-credited\ need^2 - prior\ cycle\ credits - rehabilitation\ credits^3)$$

$$RCA\ Maximum = .5 (42-0) = 21\ units$$

Based on this calculation, Washington Township may transfer up to 21 units of its prior round obligation. Washington Township's plan does not include an RCA.

### **Prior Round Age-Restricted Units**

As per N.J.A.C. 5:93-5.14(a)3, Washington Township may age-restrict 25 percent of its prior round obligation based on the following formula:

$$\begin{array}{l} Age-Restricted \\ Maximum \end{array} = .25 (precredited\ need^4 - prior\ cycle\ credits)$$

$$\begin{array}{l} Age-Restricted \\ Maximum \end{array} = .25 (42-0)-0 = 10.5\ or\ 11\ units$$

Washington Township's Fair Share Plan includes 10 age-restricted units at Brittany Hills to address its prior round obligation.

### **Prior Round Rental Component**

As per N.J.A.C. 5.93-5.15(a), every municipality has an obligation to provide a realistic opportunity for rental units. In Washington, the 1987-1999 rental obligation is equal to 25 percent of the Township's new construction obligation based on the following formula:

$$Rental\ obligation = .25 (precredited\ need^5 - rehabilitation\ share^6)$$

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<sup>2</sup> Due to recalculations performed as part of the development of COAH's third round rules and methodology, "Precredited Need" is the sum of "Total Obligation from Prior Rounds" and "Rehabilitation Share" as indicated in Appendix C of N.J.A.C. 5:94.

<sup>3</sup> Upon adoption of COAH's third round rules on December 20, 2004, rehabilitation credits may be granted only to units rehabilitated since April 1, 2000. However, rehabilitation credits cannot exceed the rehabilitation share.

<sup>4</sup> Due to recalculations performed as part of the development of COAH's third round rules and methodology, "Precredited Need" is the sum of "Total Obligation from Prior Rounds" and "Rehabilitation Share" as indicated in Appendix C of N.J.A.C. 5:94.

$$\text{Rental obligation} = .25 (42-0) = 10.5 \text{ or } 11 \text{ units}$$

Based on this calculation, the Township has an 11-unit prior round rental obligation. The Township addressed this obligation with rental units in Peachtree Village.

### **Summary of Fair Share Plan for Prior Round Obligation**

The following table summarizes Washington Township's Fair Share Plan for its 1987-1999 fair share obligation:

	<b>New Construction Component</b>	
<b>Prior Round Obligation:</b>	<b>42</b>	
<b>Credits/Reductions/Adjustments</b>	<b>Plan</b>	<b>Eligible</b>
Peachtree Village	11	11
Peachtree Village Rental Bonuses	10	10
Brittany Hills	10	10
Alternative Living Arrangement	6	6
Write-down/Buy-down	5	5
<b>Total Credits/Reductions/Adjustments</b>	<b>42</b>	<b>42</b>

### **C. Growth Share Obligation**

The Township proposes to address its third round obligation of 117 units with 69 surplus credits, credit for four bedrooms in an alternative living arrangement development, credit for one write-down/buy-down unit, zoning for 45 age-restricted units, 10 units in a write-down/buy-down program, four bedrooms in an alternative living arrangement facility, 20 affordable units through two municipally sponsored construction developments and 10 units through an accessory apartment program.

<sup>5</sup> Due to recalculations performed as part of the development of COAHs third round rules and methodology, "Precredited Need" is the sum of "Total Obligation from Prior Rounds" and "Rehabilitation Share" as indicated in Appendix C of N.J.A.C. 5:94.

<sup>6</sup> Due to recalculations performed as part of the development of COAH's third round rules and methodology, "Rehabilitation Component" is now "Rehabilitation Share" as indicated in Appendix C of N.J.A.C. 5:94.

### **Completed Units**

Pursuant to N.J.A.C. 5:94-3.2(a), a municipality may receive credits for housing activity prior to the date of its petition for substantive certification, provided such activity complies with criteria in N.J.A.C. 5:93-1 et seq.

#### **Peachtree Village - Non Age-Restricted Rental Units**

Washington Township is requesting credit for the remaining rental units at Peachtree Village. As noted above, Peachtree Village was included in the Township's previously certified plan and produced 42 affordable family rental units completed in 1994. The 42 units have 30-year affordability controls and are administered by the Arlene Langdon. As aforementioned, the Township has allocated 11 of these units to address a portion of the Township's total prior round obligation. The Township's third round plan allocates the remaining 31 units to be used to address a portion of the Township's growth share obligation. In addition, the Township is eligible to receive one rental bonus for non age-restricted units available to the general public in excess of its rental component. **[31 post-1986 credits]**

#### **Brittany Hills -Age-Restricted Rental Units**

Washington Township is requesting credit for the remaining age-restricted rental units at Brittany Hills. As noted above, Brittany Hills consists of 38 affordable age-restricted units and was included in the Township's previously certified plan. COAH staff has determined that the 38 units previously certified at this location continue to be eligible credits toward Washington's prior round obligation and address a portion of the Township's third round growth share obligation. The units were completed in 2002. The Township plan allocates 10 of these units to address a portion of the Township's total prior round obligation and allocates the remaining 28 units to be used to address a portion of the Township's growth share obligation. **[28 post-1986 credits]**



REM NJ Properties- Alternative Living Arrangement Development

Washington has included a four-bedroom alternative living arrangement located at Block 35.03, Lot 5 as an additional mechanism to address a portion of the Township's growth share obligation. This group home is administered by New Jersey Mentor and serves people with developmental disabilities. It was not previously included in any of Washington Township's previously certified plans. COAH staff has determined that the Township is eligible to receive three credits for the four-bedroom alternative living arrangement development. The ineligible bedroom is occupied by a supervisor of the alternative living arrangement development. **[Three credits]**

Write-Down Program

The Township's plan also allocates one additional unit that has been purchased under the prior round write-down/Buy-down program. As noted above, the Township's plan includes six units previously bought down as part of the Township's second round compliance plan. Five units allocated to address a portion of the prior round obligation are owner occupied units and the remaining rental unit is addressing a portion of the growth share obligation. COAH staff has determined that the Township is eligible to receive credit for one buy-down unit towards its growth share obligation. **[One credit]**

**Proposed Units**

Zoning for Affordable Units

The Township's Fair Share Plan proposes 45 affordable age-restricted ownership units at block 19/lots 5, 6 and 7 located in the Musconetcong Housing Age-Restricted Overlay Zone, known as Greenbriar Riverview. The site is located in PA 5 and in the Highlands Planning Area. A tributary of the Musconetcong River traverses the property. In addition, wetlands are present throughout the site. The Township indicates that US Home Corporation Inc., applicant for block 19/lots 5, 6 and 7, received minor subdivision and preliminary major site plan approval from the Planning Board of Washington Township on May 25, 2005, to construct 360 age-restricted

condominium units of which 45 units will be affordable to low- and moderate-income households. The set-aside results in one affordable unit being created for every seven market rate units. The Township's resolution approving the preliminary major site plan indicates that twenty-four buildings will be constructed, of which 23 will have 15 units, one building will contain 14 units and the last unit will be located in an existing farmhouse. The development will consist of 315 age-restricted market units, 22 units affordable to moderate income families and 23 units affordable to low income families.

The Township has provided information pertaining to the site's availability and demonstrated that the site may be developed for low and moderate income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. The development will be served by public water and public sanitary sewer by the Hackettstown Municipal Utility Authority.

COAH staff analyzed the proposed site to determine site suitability pursuant to N.J.A.C. 5:94-4.5. In analyzing the sites, COAH staff used the best available data on freshwater wetlands (FWW) from geographic information system (GIS) layers generated under the New Jersey Freshwater Wetlands Mapping Program along with digitally prepared GIS data layers showing land use/land cover (LULC) coverages and flood prone areas as prepared by the New Jersey Department of Environmental Protection (DEP) Bureau of Geographic Information and Analysis. This information was superimposed on digital aerial photographs and used in conjunction with the policy guidelines of the SDRP and GIS mappings prepared by the Office of Smart Growth (OSG). COAH's analysis determined that the site does not have any environmental constraints that would preclude residential development from occurring.

However, since the land areas within Washington Township are located in Planning PAs 4B and 5 and the development will yield more than one affordable unit for every eight market-rate residential units, the site must be consistent with the State Development and Redevelopment Plan. Pursuant to N.J.A.C. 5:94-4.5(a)2, Washington submitted documentation demonstrating that the proposed development at block 19/lots 5, 6 and 7 is consistent with sound planning principles and the goals, policies and objectives of the SDRP. On November 13, 2006, the Executive Director of the Office of Smart Growth issued a letter (attached) to COAH indicating

the consistency of the site with sound planning principles and the goals, policies and objectives of the State Development and Redevelopment Plan.

Pursuant to N.J.A.C. 5:94-4.19, and as discussed below, Washington Township is limited to 58 age-restricted affordable units in addressing its growth share obligation. 28 completed age-units in the Brittany Hills development have been included in the plan. Therefore, an additional 30 units proposed in Greenbriar Riverview may be proposed to address a portion of the growth share obligation. **[30 age-restricted units]**

#### Accessory Apartment Program

The Township proposes to continue an accessory apartment program in accordance with the accessory apartment standards at §217-56 of the Township's land use regulations. The Township anticipates that it could produce 10 units through an accessory apartment program but, COAH records indicate that the established program has not produced affordable units. Therefore, COAH will not recognize this mechanism for addressing the Township's affordable housing obligation due to the lack of production of units in a previously pledged accessory apartment program. Although the Township submitted a draft ordinance that reflects the requirements of N.J.A.C. 5:94-4.9, COAH cannot grant advance credit for this mechanism for addressing the Township's affordable housing obligation since the Township has not submitted the following: 1) a draft or executed contract with an experienced administrator to administer the accessory apartment program; 2) an accessory apartment procedures manual; and 3) a waiting list of interested homeowners willing to participate in the program. However, the Township may be eligible to receive credit for accessory apartments created in accordance with COAH's regulations.

The Township proposes to finance the program with funds from its affordable housing trust fund account. In addition, Washington indicates that the accessory apartment units will have 30-year affordability controls and be available to low income households. The Township submitted a spending plan that includes the expenditure of \$200,000 to finance the accessory apartment program and a proposed resolution of intent to bond for any unforeseen shortfall in funding the accessory apartment program. The Township indicates that it currently has \$532,280

in its affordable housing trust fund account. Although Washington has sufficient capital to fund its accessory apartment program, the Township provided a resolution of intent to bond to fund any shortfall of funds required to implement its Fair Share Plan. **[Zero units]**

#### Buy-Down Program

Washington also proposes to continue its buy-down program. As noted above, the Township has bought-down the cost of six market units and offered them in sound condition at affordable prices to low and moderate income households. The Township proposes to acquire 10 additional units through the continuation of the buy-down program. Pursuant to N.J.A.C. 5:94-4.10(a)4, Washington is required to provide a minimum subsidy of \$25,000 per unit for the buy-down program. The Township indicates that \$25,000 may not be enough to buy-down the unit to an affordable housing price and has elected to make a total of \$2,750,000 (\$275,000 per unit) available to 10 income eligible households who wish to participate in the program.

The Township has designated the Housing Partnership of Morris County (HPMC) to administer Washington Township's buy-down program. The Township is a member of the HPMC, a not-for profit organization that provides housing services including marketing of the write-down/buy-down program in conformance with COAH rules. HPMC maintains an inventory of potential units, qualifies and places income eligible households and enforces the 30-year deed restrictions. The Township submitted a copy of its procedures manual that reflects the requirements of N.J.A.C. 5:94-4.10.

The Township submitted a spending plan that includes the expenditure of \$2,750,000 to finance the buy-down program. The Township indicates that it currently has \$532,280 in its housing trust fund account. The Township provided a resolution of intent to bond to fund any shortfall of funds required to finance the balance of the buy-down program. **[10 units]**

#### Municipally Sponsored Construction Development

Washington Township proposes the construction of 10 affordable rental units to address a portion of its growth share obligation. The Township's indicates that the Lotus Land

Development Corporation (Lotus) owns block 8, lot 2.02 and will construct 10 low- and moderate-income non-age restricted rental units. The entire site is located in the Highlands Planning Area as established by the Highlands Water Protection and Planning Act (HWPPA). In addition, the Township submitted an agreement with Lotus for the creation of 10 affordable rental units. The Township will provide Lotus \$550,000 to assist in the financing of the rental units with funds from the Township's housing trust fund.

The Township has provided documentation required pursuant to N.J.A.C. 5:94-4.6. The Township provided information detailing how the 10 units will be created. In accordance with N.J.A.C. 5:94-4.6, the Township has submitted documentation demonstrating site control, site suitability in accordance with N.J.A.C. 5:94-4.5, an agreement with Lotus, a pro-forma, and a construction schedule for each step in the development process that provides for construction to begin within three years of the municipal petition for substantive certification.

In addition, since the land areas within Washington Township are located in Planning PAs 4B and 5 and the development will yield more than one affordable unit for every eight market-rate residential units, the site must be consistent with the State Development and Redevelopment Plan. Pursuant to N.J.A.C. 5:94-4.5(a)2, Washington submitted documentation demonstrating that the proposed development at block 8/lot 2.02 is consistent with sound planning principles and the goals, policies and objectives of the SDRP. On November 13, 2006, the Executive Director of the Office of Smart Growth issued a letter (attached) to COAH indicating this site is consistent with sound planning principles and the goals, policies and objectives of the State Development and Redevelopment Plan. **[10 units]**

#### Municipally Sponsored Construction Development

Washington Township proposes the construction of 10 affordable rental units to address a portion of its growth share obligation. The Township indicates that it has initiated condemnation proceedings to acquire block 34, lot 46 to construct 10 low income rental apartments. The majority of the site is located in the Highlands Planning Area and a section of the site is located in the Highlands Preservation Area as established by the Highlands Water Protection and Planning Act (HWPPA). In addition, the Township proposes to enter into a partnership with a

private developer to construct 10 rental units. The Township plans to finance the rental units with in-lieu contributions collected pursuant to the terms of a growth share ordinance.

The Township has not provided the documentation required pursuant to N.J.A.C. 5:94-4.6. The Township has not provided information detailing how the 10 units will be created. In accordance with N.J.A.C. 5:94-4.6, the Township must demonstrate site control, demonstrate site suitability in accordance with N.J.A.C. 5:94-4.5, submit a draft or executed agreement(s) with a developer(s), a pro-forma, and submit a construction schedule for each step in the development process that provides for construction to begin within three years of the municipal petition for substantive certification.

In addition, since the land areas within Washington Township are located in Planning PAs 4B and 5 and the development will yield more than one affordable unit for every eight market-rate residential units, the site must be consistent with the State Development and Redevelopment Plan. Pursuant to N.J.A.C. 5:94-4.5(a)2, Washington submitted documentation demonstrating that the proposed development at block 34/lot 46 is consistent with sound planning principles and the goals, policies and objectives of the SDRP. On November 13, 2006, the Executive Director of the Office of Smart Growth issued a letter (attached) to COAH indicating that this site is not in conformance with sound planning principles and the goals, policies and objectives of the State Development and Redevelopment Plan. **[Zero units]**

#### Growth Share Ordinance

The Township proposes a growth share ordinance to capture affordable housing opportunities as development occurs in the Township. Washington did not indicate how many units it projected to capture with the adopted Growth Share Ordinance. The Township's growth projections included several known residential and non-residential developments for which approvals were either pending or anticipated and presumably would be subject to the requirements of the ordinance. Assuming the growth share ordinance would apply to the development applications associated with these pending and anticipated developments, the ordinance will likely result in the generation of 29 affordable housing units or equivalent payments in lieu. The Township proposes to implement a 20-unit municipally sponsored

construction program and a 10-unit buy-down program using payments in lieu generated by the growth share ordinance.

### **Growth Share Regional Contribution Agreement**

As per N.J.A.C. 5:94-5.1(a), Washington Township may transfer up to one-half of its growth share obligation via an RCA. Washington may transfer 60 units to address its growth share obligation in accordance with the following formula:

$$RCA \text{ Maximum} = .5 (\text{growth share obligation})$$

$$RCA \text{ Maximum} = .5 (117) = 58.5 \text{ or } 58 \text{ units}$$

Washington Township's Fair Share Plan does not propose an RCA to address a portion of its growth share obligation.

### **Growth Share Age-Restricted Units**

As per N.J.A.C. 5:94-4.19, Washington Township may age-restrict 50 percent of its growth share obligation addressed within a municipality. Washington Township may age-restrict 60 affordable units to address its growth share obligation in accordance with the following formula:

$$\text{Age-Restricted Maximum} = .50 (\text{growth share obligation-third round RCA units completed or proposed})$$

$$\text{Age-Restricted Maximum} = .5 (117-0) = 58.5 \text{ or } 58 \text{ units}$$

Washington Township's Housing Element and Fair Share Plan includes 28 age-restricted units in Brittany Manor and may, therefore, only include 30 of the age-restricted units in Greenbriar Riverview to address its growth share obligation.

### **Growth Share Rental Component**

As per N.J.A.C. 5:94-4.20(a), every municipality has an obligation to provide a realistic opportunity for rental units. In Washington, the rental obligation, based on the Township's growth projections as corrected by COAH, is equal to 25 percent of the Township's growth share obligation in accordance with the following formula:

$$\text{Rental obligation} = .25 (\text{growth share obligation})$$

$$\text{Rental obligation} = .25 (117) = 29.25 \text{ or } 29 \text{ units}$$

The Township addressed the 29 unit rental obligation with 28 age-restricted rental units at Brittany Manor and 31 non-age-restricted rental units in Peachtree Village. In addition, Washington's plan includes one buy-down rental unit and proposes 10 rentals at block 8, lot 2.02 available to the general public. A municipality may receive two units of credit for each affordable rental unit provided in the municipality [and available to the general public] that is in excess of the rental obligation pursuant to (a) above, provided a minimum of 50 percent of the rental obligation has been met with rental units not restricted pursuant to N.J.A.C. 5:94-4.7, N.J.A.C. 5:94-4.8 or N.J.A.C. 5:94-4.19. No rental bonuses shall be granted for rental units that address the municipality's rental obligation or rental units provided pursuant to N.J.A.C. 5:94-4.7, N.J.A.C. 5:94-4.8 or N.J.A.C. 5:94-4.19. Therefore, Washington is entitled to 28 (57 minus 29) rental bonuses. **[28 rental bonuses]**

### **Summary of Growth Share Compliance Plan**

COAH staff has calculated Washington's growth share obligation to be 117 units. Based on the plan presented, the Township proposes to address its third round obligation of 117 units with 69 surplus credits, credit for one write-down/buy-down unit, zoning for 45 affordable age-restricted units, 10 units in a write-down/buy-down program, four bedrooms in an alternative living arrangement facility, 20 affordable units through two municipally sponsored construction developments and 10 units through an accessory apartment program. However, as noted above, the Township is not eligible to include rental bonuses that were previously included in its second round certified plan as surplus credits, since the Township's rental obligation was recalculated to a lower number. The following chart summarizes the Township's third round plan:



	<b>New Construction Component</b>	
<b>Growth Share Obligation:</b>	<b>117</b>	
<b>Completed Units</b>	<b>Plan</b>	<b>Eligible</b>
Peachtree Village	31	31
Brittany Hills (age-restricted)	28	28
REM NJ Group Home	4	3
Write-down/Buy-down	1	1
Rental Bonuses	13	18
<b>Proposed Units</b>		
Greenbriar Riverview (age-restricted)	45	30
Municipally Sponsored Construction (block 8,lot 2.02)	10	10
Municipally Sponsored Construction (block 34,lot 46)	10	0
Buy-down Program	10	10
Accessory Apartment Program	10	0
Rental Bonuses	20	10
<b>Total Units</b>	<b>182</b>	<b>141</b>

## V. FAIR SHARE DOCUMENT REVIEW

### A. Growth Share Ordinance

The Township's Housing Element and Fair Share Plan included Ordinance No. RO-35-05 entitled, "An Ordinance Amending the Land Use Ordinance of the Township of Washington to Facilitate the Provision of Affordable Housing in the Third Housing Cycle in Connection with Residential and Nonresidential Developments". The ordinance requires a maximum of one for every eight market-rate residential units or one unit for every 25 jobs created in a non-residential development to be affordable to low- and moderate income households. The ordinance requires developers of developments in residential zones that generate a growth share obligation, to construct the requisite number of affordable units on-site, except that in the case of a fractional unit, the fraction will be rounded up and the developer will have the option to develop an additional unit on-site, off-site within the Township or pay a fee in lieu of constructing the unit. A developer of development in a nonresidential zone that generates a growth share obligation has the option to construct the affordable housing elsewhere in the Township or pay a fee in lieu of

construction. The Township indicates that the payment in lieu of constructing the affordable units will be negotiated between the Township and the developer. The Township indicates that the negotiation will be based upon the cost to the Township to create, or subsidize the creation of the requisite number of affordable housing units within the Township resulting from the development.

## **B. Development Fee Ordinance**

Washington Township received approval for a development fee ordinance on June 7, 1995 and the Township adopted the development fee ordinance on February 19, 1996. COAH approved Washington Township's spending plan on February 7, 1996. Pursuant to N.J.A.C. 5:94-6.14, Washington Township amended its development fee ordinance, increasing its development fees pursuant to N.J.A.C. 5:94-6.6(a) and 6.7(a). COAH received Washington's 2005 Affordable Housing Trust Fund monitoring report on June 13, 2006. The Township has reported that it has collected \$1,662,221.94 through 2005, which includes \$1,474,742.31 in development fees, \$18,186.09 in interest and \$369,293.54 from recaptured funds. Washington Township also reports that it has expended \$101,126.46 on rehabilitation, \$974,885.84 on affordable housing programs, \$41,125 on affordability assistance, and \$93,766.05 on administration, for total expenditures of \$1,210,903.35, leaving a balance of \$651,318.59.

## **C. Spending Plan**

COAH approved Washington Township spending plan on February 7, 1996. An amended spending plan was submitted by the Township with its third round petition for COAH's review and approval. As a condition of the Township's extended substantive certification approval, Washington was required to submit a revised spending plan with its petition for third round substantive certification, which must detail anticipated expenditures and a timetable to expend development fee revenues. The Township submitted a revised spending plan that complies with N.J.A.C. 5:94-6.5 which is reviewed under a separate report.

**D. Affordable Housing Ordinance**

COAH requires that pricing of affordable units, bedroom distribution, income limits of applicants for affordable housing, affirmative marketing and price controls of the affordable units be established with an Affordable Housing Ordinance. Washington submitted an Affordable Housing Ordinance that comports with the requirements of the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. The Fair Share Ordinance conforms to the Uniform Housing Affordability Controls regarding pricing of affordable units, bedroom distribution, income limits of applicants for affordable housing and price controls of the affordable units. In addition, the ordinance establishes that a municipal employee will hold the position of the municipal housing liaison. By resolution dated December 18, 2006, Washington designated Estherlee Luteran as the municipal housing liaison. The Affordable Housing Ordinance must be adopted by Washington within 45 days of COAH's grant of substantive certification.

COAH requires that municipalities designate an experienced administrative agent to administer the affordable housing programs. Washington has designated the NJ Housing and Mortgage Finance Agency (HMFA) to assume the responsibility of administrative agent. The administrator's responsibility would be to conduct the required affirmative marketing, place income eligible households in the units, enforce the terms of the deed restriction, set sales prices, and resell the units upon vacancy. Washington submitted a draft contract agreement delineating the administrator's responsibilities.

Pursuant to N.J.S.A. 52:27D-307, any new construction for which an application for a construction permit has not been declared complete before October 1, 2006 (the effective date of N.J.S.A. 52:27D-123.15) and for which affordable housing credit is sought must be constructed in compliance with the technical design standards of the barrier free subcode of the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.) In buildings without elevator service, only ground floor dwelling units must be so constructed in order to be eligible for COAH credit. Notwithstanding the exemption for townhouse dwelling units in the barrier free subcode, the first floor of all townhouse dwelling units and of all other multi-story dwelling units for which affordable housing credit is sought on or after the above referenced date and for which

an application for a construction permit has not been declared complete must be subject to the technical design standards of the barrier free subcode and must include the following features:

- An adaptable entrance to the dwelling unit;
- An adaptable full service bathroom on the first floor;
- An adaptable kitchen on the first floor;
- An accessible interior route of travel; and
- An adaptable room with a door or a casing where a door can be installed which may be used as a bedroom on the first floor.

Washington's ordinance includes these provisions.

#### **E. Affirmative Marketing Plan**

Washington Township submitted an affirmative marketing plan that comports to the requirements of the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26-1 et seq. and ensures the units in the Township's 1987-2014 Fair Share Plan and all future affordable housing units will be affirmatively marketed to the region upon initial sale/rental and re-sale/re-rental. The affirmative marketing plan must be adopted by resolution by the Township within 45 days of COAH's grant of substantive certification.

#### **F. Summary of Plan for Total 1987-2014 Fair Share Obligation**

Washington does not have a third round rehabilitation obligation. The following table summarizes the new construction components of Washington's Fair Share Plan for the 1987-2014 period based on growth projections that reflect the findings of COAH staff during a review of the Township's plan:

<b>Prior Round</b>	<b>Units</b>	
<b>Obligation:</b>	<b>42</b>	
<b>Credits/Reductions/Adjustments</b>	<b>Plan</b>	<b>Eligible</b>
Peachtree Village	11	11
Peachtree Village Rental Bonuses	10	10
Brittany Hills	10	10
Alternative Living Arrangement	6	6
Write-down/Buy-down	5	5
<b>Total Credits/Reductions/Adjustments</b>	<b>42</b>	<b>42</b>
Remaining Obligation	<b>0</b>	
<b>Growth Share Plan</b>		
Projected Growth Share Obligation	<b>117</b>	
<b>Completed Units</b>	<b>Plan</b>	<b>Eligible</b>
Peachtree Village	31	31
Brittany Hills (age-restricted)	28	28
REM NJ Group Home	4	3
Write-down/Buy-down	1	1
Rental Bonuses	13	18
<b>Proposed Units</b>		
Greenbriar Riverview (age-restricted)	45	30
Municipally Sponsored Construction (block 8,lot 2.02)	10	10
Municipally Sponsored Construction (block 34,lot 46)	10	0
Buy-down Program	10	10
Accessory Apartment Program	10	0
Rental Bonuses	20	10
<b>Total Units</b>	<b>182</b>	<b>141</b>

## VI. RECOMMENDATION

COAH staff recommends that Washington Township be granted third round substantive certification. Washington must adopt all necessary implementing ordinances within 45 days of the grant of substantive certification and submit certified copies of the adopted ordinances to COAH within seven days of the adoption.

Washington must comply with COAH monitoring requirements as set forth in N.J.A.C. 5:94-9. Pursuant to N.J.A.C. 5:94-2.4, the affordable housing obligation is based on actual growth that occurs within the municipality over time. COAH will compare the actual growth

share obligation with the actual number of affordable housing units that have been constructed or provided for at the three-, five- and eight-year review periods. Pursuant to N.J.A.C. 5:95-9.1(c), when the difference between the number of affordable units constructed or provided in Washington and the number of units required pursuant to N.J.A.C. 5:94-2.4 during the third year, fifth year and eighth year period of review results in a pro-rated production shortage of 10 percent or greater, COAH may direct Washington to amend its plan to address the shortfall.